## **HOUSE BILL No. 1383**

#### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-13.6-5-13; IC 5-16-13; IC 8-10-1-31; IC 8-23-9-58; IC 34-13-7; IC 36-1-12-22.

**Synopsis:** Public works projects. Provides that the plans, specifications, and contract documents for a public works project may not require bidders, contractors, or subcontractors to enter into or comply with certain agreements with labor organizations. Provides a cause of action to challenge the award of a contract that violates these provisions.

Effective: July 1, 2004.

## Gutwein

January 20, 2004, read first time and referred to Committee on Labor and Employment.





#### Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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### **HOUSE BILL No. 1383**

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:



may not do any of the following:	
documents for a public works contract awarded under this	chapter
1, 2004]: Sec. 13. (a) The plans, specifications, and	contract
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE	'E JULY
SECTION 1. IC 4-13.6-5-13 IS ADDED TO THE INDIAN.	A CODE

- (1) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement with a labor organization on the same or a related public works project.
- (2) Discriminate against a bidder, contractor, or subcontractor for refusing to enter into, remain signatory to, or comply with an agreement with a labor organization on the same or a related public works project.
- (3) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement that requires the bidder's, contractor's, or subcontractor's employees, as a condition of their employment, to do either of the following:
  - (A) Become members of or affiliated with a labor



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1	organization.	
2	(B) Over the objection of an employee, pay dues or fees to	
3	a labor organization that exceed the employee's share of	
4	the labor organization's costs relating to collective	
5	bargaining, contract administration, or grievance	
6	adjustment.	
7	(b) This section does not prohibit an employer or any other	
8	person covered by the National Labor Relations Act from entering	
9	into agreements or engaging in any other activity protected by law.	
10	This section may not be interpreted to interfere with the labor	4
11	relations of persons covered by the National Labor Relations Act.	
12	SECTION 2. IC 5-16-13 IS ADDED TO THE INDIANA CODE AS	
13	A <b>NEW</b> CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY	
14	1, 2004]:	
15	Chapter 13. Prohibited Public Works Contract Requirements	_
16	Sec. 1. (a) This chapter applies to the plans, specifications, and	4
17	contract documents for a public works contract awarded by a	
18	contracting agency.	
19	(b) This chapter does not prohibit an employer or any other	
20	person covered by the National Labor Relations Act from entering	
21	into agreements or engaging in any other activity protected by law.	
22	This chapter may not be interpreted to interfere with the labor	
23	relations of persons covered by the National Labor Relations Act.	
24	Sec. 2. As used in this chapter, "contracting agency" refers to	
25	the agency, board, commission, officer, or trustee that enters into	
26	a public works contract covered by this article.	
27	Sec. 3. Plans, specifications, and contract documents may not do	
28	any of the following:	
29	(1) Require a bidder, contractor, or subcontractor to enter	4
30	into or comply with an agreement with a labor organization	
31	on the same or a related public works project.	
32	(2) Discriminate against a bidder, contractor, or	
33	subcontractor for refusing to enter into, remain signatory to,	
34	or comply with an agreement with a labor organization on the	
35	same or a related public works project.	
36	(3) Require a bidder, contractor, or subcontractor to enter	
37	into or comply with an agreement that requires the bidder's,	
38	contractor's, or subcontractor's employees, as a condition of	
39	their employment, to do either of the following:	
40	(A) Become members of or affiliated with a labor	
41	organization.	
42	(B) Over the objection of an employee, pay dues or fees to	



1	a labor organization that exceed the employee's share of
2	the labor organization's costs relating to collective
3	bargaining, contract administration, or grievance
4	adjustment.
5	SECTION 3. IC 8-10-1-31 IS ADDED TO THE INDIANA CODE
6	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7	1, 2004]: Sec. 31. (a) This section applies to a contract for the
8	following:
9	(1) Altering, building, constructing, demolishing, improving,
0	or repairing a building or structure by the commission.
1	(2) An improvement to real property owned by, or leased in
2	the name of, the commission.
3	(3) The routine operation, routine repair, or routine
4	maintenance of existing structures, buildings, or real property
5	by the commission.
6 7	(b) The plans, specifications, and contract documents for a
7	contract awarded by the commission may not do any of the
8	following:
9	(1) Require a bidder, contractor, or subcontractor to enter
0	into or comply with an agreement with a labor organization
1	on the same or a related public works project.
2	(2) Discriminate against a bidder, contractor, or
3	subcontractor for refusing to enter into, remain signatory to,
4 5	or comply with an agreement with a labor organization on the
5 6	same or a related public works project. (3) Require a bidder, contractor, or subcontractor to enter
5 7	into or comply with an agreement that requires the bidder's,
3	contractor's, or subcontractor's employees, as a condition of
) }	their employment, to do either of the following:
, )	(A) Become members of or affiliated with a labor
l	organization.
2	(B) Over the objection of an employee, pay dues or fees to
3	a labor organization that exceed the employee's share of
4	the labor organization's costs relating to collective
5	bargaining, contract administration, or grievance
6	adjustment.
7	(c) This section does not prohibit an employer or any other
8	person covered by the National Labor Relations Act from entering
9	into agreements or engaging in any other activity protected by law.
0	This section may not be interpreted to interfere with the labor
1	relations of persons covered by the National Labor Relations Act.
2	SECTION 4 IC 8-23-9-58 IS ADDED TO THE INDIANA CODE



1	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2	1, 2004]: Sec. 58. (a) The plans, specifications, and contract
3	documents for a contract awarded by the department may not do
4	any of the following:
5	(1) Require a bidder, contractor, or subcontractor to enter
6	into or comply with an agreement with a labor organization
7	on the same or a related public works project.
8	(2) Discriminate against a bidder, contractor, or
9	subcontractor for refusing to enter into, remain signatory to,
0	or comply with an agreement with a labor organization on the
1	same or a related public works project.
2	(3) Require a bidder, contractor, or subcontractor to enter
.3	into or comply with an agreement that requires the bidder's,
4	contractor's, or subcontractor's employees, as a condition of
.5	their employment, to do either of the following:
6	(A) Become members of or affiliated with a labor
7	organization.
8	(B) Over the objection of an employee, pay dues or fees to
9	a labor organization that exceed the employee's share of
20	the labor organization's costs relating to collective
21	bargaining, contract administration, or grievance
22	adjustment.
23	(b) This section does not prohibit an employer or any other
24	person covered by the National Labor Relations Act from entering
25	into agreements or engaging in any other activity protected by law.
26	This section may not be interpreted to interfere with the labor
27	relations of persons covered by the National Labor Relations Act.
28	SECTION 5. IC 34-13-7 IS ADDED TO THE INDIANA CODE AS
29	A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
0	1, 2004]:
31	Chapter 7. Enforcement of Certain Public Works Statutes
32	Sec. 1. As used in this chapter, "applicable statute" refers to any
33	of the following:
34	(1) IC 4-13.6-5-13.
35	(2) IC 5-16-13.
6	(3) IC 8-10-1-31.
37	(4) IC 8-23-9-58.
8	(5) IC 36-1-12-22.
9	Sec. 2. As used in this chapter, "interested party" includes the
10	following:
1	(1) A bidder, contractor, or subcontractor for a public works
12	contract covered by an applicable statute.



1	(2) An employee of a bidder, contractor, or subcontractor for	
2	a public works contract covered by an applicable statute.	
3	(3) A taxpayer of an entity awarding a public works contract	
4	covered by an applicable statute.	
5	Sec. 3. An interested party has a cause of action to challenge the	
6	award of a contract that violates an applicable statute.	
7	Sec. 4. Subject to section 5 of this chapter, an interested party	
8	that prevails in an action under this chapter is entitled to the	
9	following relief:	
10	(1) A declaration that the provisions of the contract that	
11	violate the applicable statute are void.	
12	(2) Costs and attorney's fees.	
13	(3) Any other appropriate relief requested by the interested	
14	party.	
15	Sec. 5. (a) This chapter does not prohibit an employer or any	
16	other person covered by the National Labor Relations Act from	
17	entering into agreements or engaging in any other activity	
18	protected by law.	
19	(b) This chapter may not be interpreted to interfere with the	
20	labor relations of persons covered by the National Labor Relations	
21	Act.	
22	(c) Relief that would interfere with the labor relations of	
23	persons covered by the National Labor Relations Act may not be	
24	granted under this chapter.	
25	SECTION 6. IC 36-1-12-22 IS ADDED TO THE INDIANA CODE	
26	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY	
27	1, 2004]: Sec. 22. (a) The plans, specifications, and contract	
28	documents for a public works contract awarded under this chapter	V
29	may not do any of the following:	
30	(1) Require a bidder, contractor, or subcontractor to enter	
31	into or comply with an agreement with a labor organization	
32	on the same or a related public works project.	
33	(2) Discriminate against a bidder, contractor, or	
34	subcontractor for refusing to enter into, remain signatory to,	
35	or comply with an agreement with a labor organization on the	
36	same or a related public works project.	
37	(3) Require a bidder, contractor, or subcontractor to enter	
38	into or comply with an agreement that requires the bidder's,	
39	contractor's, or subcontractor's employees, as a condition of	
40	their employment, to do either of the following:	
41	(A) Become members of or affiliated with a labor	
42	organization.	



	(B) Over the objection of an employee, pay dues or fees to a labor organization that exceed the employee's share of the labor organization's costs relating to collective
	bargaining, contract administration, or grievance
	adjustment. (b) This section does not prohibit an employer or any other
	person covered by the National Labor Relations Act from entering
	into agreements or engaging in any other activity protected by law.
4	This section may not be interpreted to interfere with the labor
	relations of persons covered by the National Labor Relations Act.
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